



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

NCR Docket No. 6791.40

MAM Docket No. 1001-0781

Application of: **Peters**

Serial No. **09/303,360**

Filed: **April 29, 1999**

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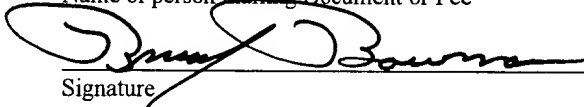
Group Art Unit: **2685**

Examiner: **Charles R. Craver**

For: **Interactive Phone System Utilizing Wireless Channels**

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Bruce J. Bowman
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August 28, 2002
Date of Signature

LETTER

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Enclosed are an original and three (3) copies of a Reply Brief in connection with the above-identified patent application. The due date for filing this Reply Brief is two months from the mailing date of the Examiner's Answer (i.e. 07/30/02). Therefore, it is respectfully submitted that this Reply Brief is timely filed.

Please provide any extensions of time which may be necessary and charge any fees which may be due to Deposit Account No. 13-0014, but not to include any payment of issue fees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce J. Bowman". The signature is fluid and cursive, with a large loop at the end.

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Attorney Docket No. 6791.40

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Group Art Unit: 2685

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SEP 06 2002

Technology Center 2600


For: **Interactive Phone System Utilizing Wireless Channels**

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(Name of person signing this certificate)


(Signature)

August 28, 2002
(Date of Signature)

Noted
12-1-02

REPLY BRIEF

Hon. Commissioner of Patents and Trademarks

Washington, D.C. 20231

Sir:

Please enter the following remarks.

(1) INTRODUCTION

This Reply Brief is submitted to respond to the Examiner's comments and new points of argument raised in the Examiner's Answer dated July 30, 2002. Three copies of the present Reply Brief are filed herewith.

Initially, the Examiner indicates that the "rejection of claims 1-10 and 12-17 stand or fall together because appellant's [Appeal] brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof."

Reference is then made to 37 CFR §1.192(c)(2). See Examiner's Answer of July 30, 2002, page 3, under heading "(7)".

While no explicit statement regarding the grouping of claims was made in Appellant's Appeal Brief or Amended Appeal Brief under the heading "(7) Grouping of Claims", it is clear from the grouping of claims that the claims do not stand or fall together, which statement is hereby incorporated into Appellant's Appeal Brief/Amended Appeal Brief. The claims do not stand or fall together since each grouping of claims includes novel limitations not present in the other grouping of claims.

(2) NEW POINTS OF ARGUMENT RAISED BY THE EXAMINER'S ANSWER

I. General Matters

A. Does the Appeal Brief fail to contain a statement identifying the related appeals and interferences that will directly affect or be affected by or have a bearing on the decision in the pending appeal?

II. With respect to Claim Grouping I, i.e. claims 7, 8 and 12-17

B. Does the Term "Coupled" encompass "wirelessly"?

III. With respect to Claim Grouping II, i.e. claims 1-6

C. Is the Non-Challenging of a Limitation Acquiescence?

D. Does the non-inclusion of a negative limitation imply inclusion of the negative limitation?

(3) APPELLANT'S REPLY TO THE NEW POINTS OF ARGUMENT RAISED BY THE EXAMINER'S ANSWER

I. General Matters

A. The Appeal Brief does contain a statement identifying the related appeals and interferences that will directly affect or be affected by or have a bearing on the decision in the pending appeal

Appellant submits that page two (2) of the Appeal Brief filed April 30, 2002 and page two (2) of the Amended Appeal Brief filed May 8, 2002 does indeed contain such a statement under heading “(2) Related Appeals and Interferences.” Particularly, Appellant states in both documents, “There are no related appeals or interferences related to this patent application (serial no. 09/303,360).”

II. With respect to Claim Grouping I, i.e. claims 7, 8 and 12-17

B. The Term “Coupled” Cannot Encompass “wirelessly”

1. Independent claim 7

The Examiner maintains that independent claim 7 is anticipated by Bendixen (U.S. Patent 4,890,315) under 35 U.S.C. §102(b) (see Examiners Answer of July 30, 2002, page 4). The Examiner alleges that Bendixen anticipates the limitations of claim 7. Particularly, the Examiner alleges that a wireless connection constitutes coupling as necessitated between the various components as recited in claim 7. Appellant disagrees that Bendixen anticipates claim 7 and/or that Bendixen can be read and/or interpreted to anticipate claim 7.

In order for the Examiner to utilize Bendixen as an anticipatory reference, the Examiner maintains i) that a “called party’s line” of Bendixen constitutes the

“telephone line” of claim 7, ii) that the “remote telephone network” of Bendixen constitutes the “telephone system controller” of claim 7, and iii) that the “wireless interface” of Bendixen constitutes “coupled” as required by the limitations claim 7 wherein the “telephone system interface” and the “telephone system controller” are *coupled* to the telephone line. (See claim 7 set forth on pages 6 and 17 of the Amended Appeal Brief of May 8, 2002, and pages 5 and 17 of the Appeal Brief of April 30, 2002)

As pointed out above, claim 7 requires that a telephone system interface *and* a telephone system controller be coupled to a telephone line. It is axiomatic from the context of claim 7 and the specification that the telephone line be one and the same telephone line. The term “coupled” means “connected to”. While a wireless “connection” can provide communication between components (or in the context of claim language, a wireless “connection” may provide for a component to be “in communication with” another component), a wireless “connection” cannot *couple* one component to another component. A wireless “connection” must utilize a form of radiant energy (e.g. an electromagnetic emanation, a radio frequency emanation, light, or the like). As such the radiant energy is always propagating from one component to another component. It can never *couple* one component to another component.

Therefore, in view of the above, Appellant submits that the Examiner’s assertion that a wireless “connection” can constitute coupling is without merit. Accordingly, Bendixen is not a proper §102 reference.

2. Dependent claims 8 and 12

Since claims 8 and 12 depend from claim 7, and claim 7 has been shown above to not be anticipated by Bendixen, claims 8 and 12 cannot be anticipated by Bendixen.

3. Independent claim 13

The Examiner utilizes the same arguments with respect to the alleged anticipation of claim 13 as were used for the alleged anticipation of claim 7. As pointed out above, the Examiner's arguments fail with respect to the anticipation of claim 7 by Bendixen. Therefore, the arguments must axiomatically fail with respect to the anticipation of claim 13 by Bendixen.

4. Dependent claims 14-17

Since claims 14-17 depend from claim 13, and claim 13 has been shown above to not be anticipated by Bendixen, claims 14-17 cannot be anticipated by Bendixen.

III. With respect to Claim Grouping II, i. e. Claims 1-6

C. Is the Non-Challenging of a Limitation Acquiescence?

1. Independent claim 1

The Examiner maintains that claim 1 is unpatentable over Bendixen under 35 U.S.C. §103(a) (see Examiner's Answer of July 30, 2002, page 5). The Examiner

indicates that the arguments for the alleged unpatentability of claim 1 are the same as the arguments used for the alleged anticipation of claim 7. As pointed out above, the Examiner's arguments fail with respect to the anticipation of claim 7 by Bendixen. Further, there is no teaching or suggestion offered by the Examiner as to why claim 1 would be obvious in view of Bendixen. Therefore, the Examiner's arguments fail with respect to the unpatentability of claim 1 over Bendixen.

Moreover, the Examiner correctly points out that claim 1 requires the "telephone system controller" be in a housing. While this limitation was not explicitly challenged by Appellant in the Appeal Brief or the Amended Appeal Brief, this does not change the fact that claim 1 requires the telephone system controller be in a housing. Such a teaching or suggestion is lacking in Bendixen.

The Examiner maintains that such a housing would be obvious in view of Bendixen. However, the Examiner maintains that the Bendixen component corresponding or constituting the claimed "telephone system controller" is a "network." It is not clear how an amorphous "network" could ever be in a housing. Therefore, Appellant submits that Bendixen does not render claim 1 unpatentable.

D. The Non-Inclusion of a Negative Limitation Does NOT Imply Inclusion of the Negative Limitation

The Examiner maintains that the "controller" (i.e. the network) of Bendixen constitutes, and therefore anticipates and/or makes obvious, the presently claimed "telephone system controller". This has been shown above to be erroneous. Moreover, the Examiner indicates that since claim 1 does not have the negative limitation

that the present phone system controller is not a remote system, the present system may be a remote system. Appellant maintains that this argument is flawed.

The non-inclusion of a negative limitation to the effect that the present apparatus, method or the like is not something is without merit. To give such a negative limitation is to imply that the apparatus, method or the like has or is that something unless an express disclaimer is made. Appellant submits that this is contrary to the patent laws.

It is implicit in the limitations of independent claim 1, that the interface and the present controller are not a remote system since the present controller and interface are coupled to the same telephone line. As such, the remote system of Bendixen is inapplicable to claim 1.

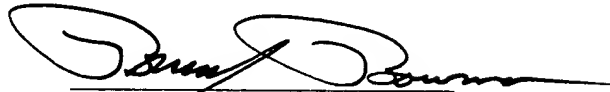
2. Dependent claims 2-6

Since claims 2-6 depend from claim 1, and claim 1 has been shown above to not be unpatentable over Bendixen, claims 2-6 cannot be unpatentable over Bendixen.

Conclusion

In view of the above, Appellant respectfully submits to the Honorable Board of Appeals that all of the pending claims are allowable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce J. Bowman", written over a horizontal line.

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August 28, 2002

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